

From: Terry Smith/DC/USEPA/US
Sent: 12/7/2011 11:33:04 AM
To: Schatzi Fitz-James/DC/USEPA/US@EPA
CC:
Subject: Fracking case in Region 3

I wonder if this is the same one that we got that call from the guy a few months ago that you called Cindy Metzger about ??

The Inside Story

Activists Seek EPA Role In Fracking Case

Posted: December 6, 2011

Environmentalists are urging EPA to intervene in a state appeals board suit on behalf of Pennsylvania citizens suing Cabot Oil & Gas Corporation over natural gas drilling operations that allegedly contaminated groundwater, asking Administrator Lisa Jackson to weigh in on the Keystone State's recent finding that the company has fulfilled its obligations for providing water supplies to affected households.

Activists say the case is a test of Jackson's public commitment to step in and help local residents deal with contamination from fracking in cases where states are not. But activists' effort may be stymied by an [EPA email](#) to local residents saying that a preliminary review of Pennsylvania Department of Environmental Protection's (DEP) data indicates that the water does not pose an immediate health threat.

"While we are continuing our review to date, the data does not indicate that the well water presents an immediate health threat to users," Trish Taylor, of EPA Region III's Hazardous Site Cleanup Division, says in the Dec. 2 email, which was published in a Dec. 5 blog post by the conservative Heritage Foundation.

Environmentalists, however, continue to blast [DEP's Oct. 18 decision](#) that Cabot has fulfilled its obligations to furnish Dimock residents whose wells were contaminated with methane in 2009, which allows the company to discontinue its water deliveries.

"The Department's October 18th decision is irresponsible given that Dimock residents rely on this temporary fresh water for drinking, bathing, and other household uses, and that the alternative treatment systems being offered have been reported to be inadequate," Natural Resource Defense Council (NRDC) senior attorney Kate Sinding says in a [Nov. 22 letter](#) to DEP Secretary Michael Krancer, Region III Administrator Shawn Garvin and Gov. Tom Corbett (R).

"It is, moreover, beyond the scope of the Department's legal authority under state law to terminate the delivery of water at this time."

NRDC is also planning to join Dimock residents in a suit just submitted to Pennsylvania's Environmental Hearing Board, alleging that DEP's decision violates the state's Oil and Gas Act because the law requires a polluting entity to continue providing fresh water supplies until water quality has been restored to pre-contamination condition, according to an NRDC spokeswoman.

During a Dec. 6 press conference, Delaware Riverkeeper Network, NRDC and other organizations called for EPA intervention in the appellate board issue, according to a press release from Delaware

Riverkeeper Network. “Speakers from national and local environmental groups also called on Pennsylvania Inspector General Kenya Mann to investigate undue influence on Pennsylvania regulators, and appealed to [Jackson] to intervene in the case,” the group says in a Dec. 6 release.

“The federal Environmental Protection Agency has been prohibited from regulating hydraulic fracturing operations because of loopholes and exemptions for the gas industry, but earlier this year [Jackson] vowed before Congress that “EPA will step in to protect local residents if a driller jeopardizes clean water and the state government does not act,” the group says, referring to EPA's enforcement strategy for oversight of fracking.

The strategy hinges on emergency provisions of environmental laws, one of which is being challenged in a key Safe Drinking Water Act (SDWA) suit in the U.S. Court of Appeals for the 5th Circuit, *Range Resources v. EPA*.

Meanwhile, a class action suit filed by 63 citizens in Dimock suing Cabot over cleanup of the allegedly contaminated wells, is still pending in *Fiorentino v. Cabot*, in the United States District Court for the Middle District of Pennsylvania.

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